IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SALES TAX REFERENCE No 2 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

CHOKSHI JOITARAM ISHWARDAS

Appearance:

1. SALES TAX REFERENCE No. 2 of 1993
MR SUDHIR MEHTA, AGP. for Applicant.
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 24/10/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the revenue, the following question has been referred to this Court under the provisions of Section 69(1) of the Gujarat Sales Tax Act,1969, for its opinion :

"Whether on facts and in the circumstances of the case, the Tribunal was right in holding that the rate of tax for the purpose of Section 8(2)(b) of the Central Sales Tax Act, 1956 read with Section 6 of the same Act and Section 40(1) of the Gujarat Sales Tax Act, 1969, in respect of sale of silver bullion and silver ornaments would be 1/2 percent and would not attract additional tax at the rate of 6% of the amount of tax ?"

2 Mr.Sudhir Mehta, learned Assistant Government Pleader has appeared for the applicant-revenue whereas none has appeared on behalf of the opponent-assessee though served. The learned Assistant Government Pleader has drawn our attention to the judgment delivered in the case of Meghdoot Laminard Ltd., reported in 86 Sales Tax Cases 295.

3 Looking to the law laid down by this Court in the aforesaid decision, we answer the question referred to this Court in the Negative i.e. in favour of the revenue and against the assessee.

4. The Reference stands disposed of accordingly with no order as to costs.

(A.R.Dave, J) (D.A.Mehta, J)

m.m.bhatt